

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: Schoenfeld *et al.*
SERIAL NUMBER: 09/806,400 EXAMINER: Ron Schwadron, Ph.D.
FILING DATE: March 30, 2001 ART UNIT: 1644
FOR: COMPOSITIONS FOR THE PREVENTION AND/OR TREATMENT OF
ATHEROSCLEROSIS

Mail Stop: Appeal Brief - Patents

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**RESPONSE TO NOTICE OF NON-COMPLIANT APPEAL BRIEF
UNDER 37 CFR § 41.37**

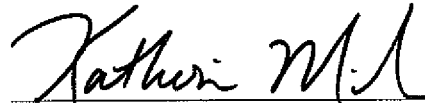
In response to the Notice of Non-Compliant Appeal Brief (the "Notice"), mailed November 24, 2009, Applicants submit a revised copy of the Appeal Brief timely filed on April 24, 2009, containing copies of the evidence submitted under 37 C.F.R. 1.132 as well as other evidence entered by the Examiner and relied upon by the appellant in the appeal, in accordance with 37 C.F.R. 41.37 (c)(1)(ix). This response is due on or before December 24, 2009.

The Examiner states in the Notice that the Bocan *et al.* reference was incomplete when it was first submitted in an information disclosure statement on December 7, 2005. Specifically, the Examiner alleges that the Bocan *et al.* reference of record lacks pages 38 and 39. Appellants disagree and submit that when the Examiner initialed the Bocan *et al.* reference on February 23, 2006, he certified that the reference was received in a complete and acceptable form. The Examiner should have raised any objection to the Bocan *et al.* reference at the time it was submitted. However, to expedite acceptance of the Appeal Brief, Appellants resubmit the revised Appeal Brief with pages 38-39 of the Bocan *et al.* reference removed. Furthermore, Appellants submit that pages 37 and 40-52 of the Bocan *et al.* reference support the Appellant's arguments presented in the Appeal Brief.

Applicants believe that no additional fees are due in this filing, however, the Commissioner is authorized to charge any additional fees due, or credit any overpayment of same, to the undersigned's account, Deposit Account No. 50-0311, Reference No. 25619-501.

Should any questions or issues arise concerning this application, the Examiner is encouraged to contact the undersigned at the telephone number provided below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Katherine M.L.", is written over a horizontal line.

Ivor R. Elrifi, Reg. No. 39,529
Matthew Pavao, Reg. No. 50,572
Katherine J. Miller, Reg. No. 62,080
Attorneys/Agent for Applicants
c/o MINTZ, LEVIN
Tel: (617) 542-6000
Fax: (617) 542-2241
Customer No.: 30623

Dated: December 21, 2009